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EPA Daily News Briefing

Bulletin
INTELLIGENCE

TO: ADMINISTRATOR AND SENIOR EXECUTIVES

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ADMINISTRATOR

NYTimes A1: Pruitt Favored Industry Donors Over Regulators.

The New York Times (1/14, Lipton, Davenport) reported on its front page that after Scott Pruitt took office as Oklahoma's attorney general, he in "a series of instances...put cooperation with industry before confrontation as he sought to blunt the impact of federal environmental policies in his state – against oil, gas, agriculture and other interests." The Times says that Pruitt, President-elect Trump's nominee to lead the Environmental Protection Agency, "will have the opportunity to engineer a radical shift in Washington" and he "is expected to shelve the Obama administration's

aggressive environmental enforcement and embrace a more collaborative approach with the industries that the agency is charged with policing, many of which have helped him advance his political career.” The New York Times (1/14) reports that as Oklahoma’s attorney general, Scott Pruitt “has repeatedly sued the Environmental Protection Agency to try to block Obama administration rules intended to protect the nation’s air and water.” In all except 14 of those cases, “regulated industry players also were parties.”

Environmental Group Slams Pruitt For Accepting Industry Contributions. The Huffington Post (1/15) reported on a new investigation by the Environmental Working Group claiming that as Oklahoma’s attorney general, Scott Pruitt “accepted over \$40,000 in campaign cash from people in the poultry industry” then “looked the other way as that industry polluted.” Referring to the 2005 lawsuit accusing the poultry companies of polluting the Illinois River basin with runoff from chicken manure, Pruitt “explained his inaction on the case by saying that ‘regulation through litigation is wrong in my view.’” Although the lawsuit was taken on by the previous attorney general and concluded before Pruitt took office, “the judge never issued a ruling in the case and Pruitt never issued an appeal for the matter to be resolved.”

Environmentalists Voice Sharp Rebuke Of Pruitt. NPR (1/16, Wertz) quotes various environmentalists who are concerned that Pruitt is not serious about enforcing pollution laws. In an op-ed in Central Maine, (1/14) Charlotte Lehmann, a geoscientist and clergy-person, blasts the choice of Scott Pruitt to lead the EPA, citing his ties to special interests and history of challenging the EPA in court over its landmark regulations.

Steyer Launches Campaign Ads Targeting Pruitt’s Oil Ties. Greenwire (1/16, Mulkern) reports that Tom Steyer’s political action committee NextGen Climate launched a new ad campaign seeking to depict EPA administrator-designate Scott Pruitt as “too cozy with the petroleum industry.”

Dems Gear Up To Confront Trump’s EPA Pick During Confirmation Hearing.

The Hill (1/16, Henry) reports that Democrats are expected to confront EPA Administrator-designate Scott Pruitt, “one of Trump’s most controversial” nominees, with an “aggressive line of questioning” during his confirmation hearing before the Senate Environment and Public Works Committee on Wednesday. Democrats on the committee will focus on two narratives: “that his nomination represents a conflict of interest because of his work in Oklahoma, and that his views on climate are out of step with the majority of climate scientists.”

The Wall Street Journal (1/16, Harder, Ballhaus) reports Pruitt will be the primary target of Democrats among the Cabinet members nominated from Trump’s energy and environmental team. Pruitt has expressed a desire to repeal many of President Obama’s environmental regulations, including the Clean Power Plan. The Journal notes that both Pruitt and Energy Department Secretary nominee Perry have received donations from the oil and gas industry. The Wall Street Journal (1/16, Mann) also reports that some in the energy industry are optimistic about the appointments of Perry and Pruitt, viewing it as a sign that more fossil fuel exploration will take place on federal land. However, Dr. Michael Mann, professor of atmospheric science at Penn State University, expressed his concerns about Perry and Pruitt to NPR (1/16, Cusick) saying Perry is “on record dismissing even the fact that the globe is warming. There’s an overwhelming consensus among the world’s scientists that human actions—the burning of fossil fuels—is responsible.”

The Oklahoman (1/16) reported that Democrats released a letter earlier this week expressing concerns about his involvement in organizations that have received contributions from corporations regulated by the EPA. “Public reporting based on documents produced by Freedom of

Information Act requests illustrate how Mr. Pruitt and members of his staff have worked closely with fossil fuel lobbyists to craft his office's official positions," the letter claims.

Senate Democrats Acknowledge Difficulty In Blocking Pruitt Confirmation.

Bloomberg BNA (1/13, Leven) reported that changes to Senate rules make it highly unlikely that Democrats will be able to block EPA administrator-designee Scott Pruitt's nomination after his confirmation hearing. "The ability of the minority to slow down the process is much diminished because of those changes," said Sen. Tom Carper, concluding, "that's a reality we need to live with."

E&E Publishing (1/16) reports that Sen. Carper initially wanted to have outside witnesses testify at the hearing, "but after being rebuffed by Republicans, he will likely go it alone and hold a separate session on Pruitt."

Pruitt Opposed EPA Cleanup Of Chesapeake Bay.

The Washington Post (1/16, Fears) reports that EPA Administrator-designate Scott Pruitt, currently Oklahoma attorney general, was one of 21 state AGS who signed an amicus brief opposing the EPA's cleanup of the Chesapeake Bay. The brief "supported a federal lawsuit filed by the American Farm Bureau Federation and the Pennsylvania Farm Bureau that claimed the EPA usurped the power of states in the watershed to regulate pollution that flows into the bay from cities and farms."

Kansas, Missouri Oil And Gas Interests Expect Promising 2017 Under Trump Administration.

The Kansas City (MO) Star (1/13, Montgomery) reported that energy companies operating in Kansas and Missouri had a dismal 2016, but are beginning to see a "promising horizon" in anticipation of Donald Trump's administration. Those in the energy business see three of Trump's nominees, Oklahoma Attorney General Scott Pruitt, Former Texas Gov. Rick Perry, and former Exxon Mobil CEO Rex Tillerson, as strong potential allies for the oil and gas industry.

NAM Launches Seven-Figure Ad Campaign Supporting Pruitt Nomination.

Politico Pro (1/16, Guillen) reports the National Association of Manufacturers has launched "a seven-figure ad campaign to pressure Democrats and Republicans to support Oklahoma Attorney General Scott Pruitt's nomination to head EPA." The campaign touts Pruitt's energy credentials, "promises Pruitt will 'bring transparency back to Washington,'" and promises he will roll back "job-killing federal regulations." The ads will run "starting this weekend."

Nevada AG Urges Congress To Confirm Pruitt As EPA Chief.

In an op-ed in the Las Vegas Review-Journal, (1/17, Laxalt) Nevada Attorney General Adam Laxalt praises the selection of Scott Pruitt to lead the EPA, stating that he is "uniquely qualified to lead the agency and restore it to its original, lawful mission." Laxalt says that Pruitt "understands that a one-size-fits-all approach to regulation is not suitable when imposing environmental rules on the states," and that he will work to address regulatory overreach.

Michigan AG Schuette Says Pruitt Is "Highly Qualified" To Lead EPA. Writing in the Detroit News, (1/15) Michigan Attorney General Bill Schuette describes Pruitt as "a highly qualified leader who is committed to restoring the proper balance between the power of the states and federal government to protect our environment."

Additional Reading.

- *Hugh Hewitt Points Out 'Amazing' Dem Hypocrisy In Opposing Trump's EPA Pick.* Daily Caller. (1/13, Bastasch)

AIR

Colorado Springs Facing More Pressure Over Sulfur Dioxide From Coal Plant.

The Denver Post (1/15, Finley) reports Colorado Springs is facing "intensifying friction over foul air from an 80-year-old, coal-fired municipal power plant that pumps out sulfur dioxide." As a result of Obama Administration regulations, the city is one "of at least 13 areas the EPA still lists as 'unclassifiable' on meeting the 75 parts per billion SO₂ limit." While officials said "that air monitoring and modeling in Colorado Springs soon will begin to measure SO₂ pollution," some residents and activists have been opposed to the plant's output for years.

Editorial: EPA Must Adhere To Limits To Power.

The Wheeling (WV) Intelligencer (1/16) editorializes on the limits of the EPA, stating that the agency must "explain the justification for its mandates, as well as their impact on Americans." The editorial approves of US District Court Judge John Preston Bailey's ruling that the EPA must expediently "identify specific impacts of its Clean Air Act mandates on the coal industry."

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS

EPA Barred From Repaying \$1.2B In Gold King Mine Damage Claims.

The Hill (1/13, Henry) reported that after consulting the with Justice Department on the issue of damage claims, the EPA said it isn't allowed to repay nearly \$1.2 billion in claims filed against it following the Gold King Mine spill. According to the agency, "The circumstances surrounding the Gold King Mine incident unfortunately do not meet the conditions necessary to pay claims." Individuals and businesses who have filed claims will be able to appeal the decision in federal court.

USA Today (1/13, Wegrzyn) reported that the EPA claims the Federal Tort Claims Act bars the agency from paying claims resulting from "discretionary" government spending. The law was initially passed "to allow government agencies — and in this case, contractors working on their behalf — to act 'without the fear of paying damages in the event something went wrong while taking the action.'"

New Mexico's Lawmakers Outraged Over EPA Decision. The Albuquerque (NM) Journal (1/16) reports that New Mexico's US Sens. Tom Udall and Martin Heinrich, as well as US Rep. Ben Ray Lujan, have denounced the EPA's decision to deny liability in the mine spill. Delegation members issued a joint letter stating, "We are outraged at this last-ditch move by the federal government's lawyers to go back on the EPA's promise to the people of the state of New Mexico — and especially the Navajo Nation — that it would fully address this environmental disaster that still plagues the people of the Four Corners region." Lawmakers in the state have sworn to "aggressively pursue litigation" to receive payments for the damages.

Colorado Gov. Hickenlooper Vows To Secure Compensation. The Denver Post (1/13, Finley) reported that Colorado Gov. John Hickenlooper said he was disappointed by the EPA's decision, as "we expected the EPA to make good on its promise to reimburse any Colorado resident or business that suffered a legitimate loss as a result of the spill." Gov. Hickenlooper has vowed to work with the Attorney General to "find ways we can make sure our residents receive just compensation." The Pueblo (CO) Chieftain (1/13) reports that Colorado Sens. Michael Bennet and Cory Gardner, joined by Rep. Scott Tipton, released a statement promising to pursue

legislation to ensure that the EPA reimburses "all state, local, and tribal governments for response costs."

EPA, HUD Sign Agreement For More Proactive Means To Address Lead Contamination.

The AP (1/13) reported a joint agreement between the US Department of Housing and Urban Development and the Environmental Protection Agency signed Wednesday gives the agencies "more proactive means to test and clean up contaminated public housing complexes and subsidized multifamily housing on or near Superfund sites." The agreement comes in the "wake of the crisis in East Chicago that has led to the relocation of more than 1,000 people." Proposed HUD Secretary Ben Carson said during a US Senate hearing on his nomination that he would continue relocating families from the Calumet neighborhood affected by lead and arsenic contamination if confirmed.

AECOM To Monitor For PCB Contamination At Bennington Superfund Site.

VT Digger (VT) (1/14) reports that AECOM has been retained to perform a new phase of PCB contamination monitoring around the Bennington Superfund site. According to the article, the company will survey a "system of monitoring wells" to determine "whether pollution has spread further in the groundwater," and could be followed by "development of a long-term mediation plan." Environmental Analyst with the Vermont Department of Environmental Conservation Linda Elliott said it is possible the EPA "will wait until the administration of President-elect Donald Trump takes over before making final decisions on priorities" for funding, including for the Bennington site.

CLIMATE CHANGE

British PM May Urged To Press Trump On Climate Research.

The Washington Post (1/16, Harvey) reports British scientists are urging Prime Minister Theresa May to "stand up for climate science in the US." An open letter signed by "100 leading climate researchers" in the United Kingdom warns of the Trump Administration's skeptical stance on climate change and points to "worrying media reports that the incoming administration may severely weaken climate change research and data-gathering undertaken by federal organizations in the United States." In light of these concerns, the letter urges May to "press President-elect Trump and his administration to acknowledge the scientific evidence about the risks of climate change, to continue to support international action to counter climate change, including the Paris Agreement, and to maintain support for world class research and data-gathering on climate change in the United States."

Trump Appointees Avoid Climate Change Issue During Confirmation Hearings.

The Washington Post (1/13, Mooney) reported President-elect Trump's appointees are minimizing or avoiding "full engagement with the issue" of climate change in the confirmation hearings. Rex Tillerson attempted to minimize the issue in his hearing and Michael Pompeo "seemed to suggest he didn't think the subject very relevant to" heading the CIA. The piece notes that these positions are "progress" when compared to Trump's assertions that "climate change is a hoax," but warns that under a Trump Administration, climate change may not be "treated with a lot of urgency."

Trump Picks To Get Climate Questions During Confirmation Hearings. The Washington Examiner (1/16, Gehrke) reports President-elect Donald Trump's nominees are slated to go before Congress this week to address major issues from climate change to the protection of the sage grouse in the West. Potential Interior Secretary Rep. Ryan Zinke will attend his first

confirmation hearing Tuesday in the Senate Energy and Natural Resources Committee. EPA nominee Scott Pruitt will go before the Senate Environment and Public Works Committee on Wednesday. On Thursday, Energy Department pick Rick Perry will go before the Energy and Natural Resources Committee.

WSJournal: Democrats Bring Climate Change Hysteria To Confirmation Hearings. In an editorial, the Wall Street Journal (1/13) criticized Democrats for including climate change in the hearings of every Trump nominee. The Journal lists several strange questions Democrats asked Rex Tillerson, Mike Pompeo, and Ben Carson as examples of progressive climate change hysteria, and praises Environmental Protection Agency nominee Scott Pruitt's legal background.

Elites Gathering In Davos To Discuss Climate Change.

Bloomberg News (1/15, Blas, Shankleman) reports that despite Donald Trump's ridicule of global warming and promise to withdraw the US from the Paris Climate Change Accords, the financiers and businessmen meeting in Davos, Switzerland this week are set to spend more time on climate change than any other issue. The World Economic Forum will have 15 sessions devoted to climate, with nine more to clean energy. The business leaders are concerned with the billions of dollars at stake in renewable and clean energies, because "Insurers are starting to price-in more frequent flooding and droughts; energy giants are shaping their business for a world that's moving away from oil and coal; car makers are putting real money into electric vehicles; [and] banks want to lend money for renewable electricity projects." Shell CEO Ben van Beurden said, "The good thing is that the Paris agreement raised the bar for everyone. ... Everybody feels the obligation to act."

The New York Times (1/15, Reed) reports that "however slowly and tentatively, nations around the globe appear to be taking some steps to confront the growing threat of climate change," but participants at the World Economic Forum in Davos this week will be pondering what Donald Trump's "ascent means for their efforts to make progress on the issue." Professor David G. Victor of the University of California, San Diego said, "I think there is going to be a lot of talk about what the rest of the world does with the United States' not playing leadership roles, especially on climate." He predicted that some Davos participants would "try to figure out which governments could fill any vacuum created by Mr. Trump's administration."

Reuters (1/15, Barkin) reports that Trump is anathema to many of the ideals that the Davos elites cherish, mainly globalization, free trade and multilateralism. This becomes a salient issue because, as Ian Goldin, an expert on globalization and development at Oxford, says that many of the most important global issues, from climate change to financial regulation, can only be solved through multilateral cooperation. That is a position that populists reject. Goldin said, "The state of global politics is worse than it's been in a long time. ... At a time when we need more coordination to tackle issues like climate change and other systemic risks, we are getting more and more insular."

Sorkin Notes Perry Has Attended Davos Meeting In Past. Andrew Ross Sorkin writes in the New York Times (1/16, A1, Sorkin) that as the World Economic Forum "gets underway" Monday night "shifting political trends toward nationalism and against a sense of globalism are raising renewed questions about the relevance of the elites known as the 'Davos class.'" A "bevy" of Trump "advisers and members of his business council are expected to attend, including Anthony Scaramucci, who joined the president-elect's White House staff as an adviser and public liaison to government agencies and businesses." Scaramucci "will be joined by Stephen Schwarzman, chairman of the Blackstone Group and also of Mr. Trump's President's Strategic and Policy Forum." Although Trump himself has never been invited, "four Trump cabinet nominees have been to Davos in years past: Rick Perry (energy) once; Rex Tillerson (state) three times; Robert Lighthizer (trade) 15 times; and Elaine Chao (transportation) four times."

Trump Meets With Physicist To Discuss Skepticism Of Global Warming.

The [Washington Post](#) (1/13, Mooney) reported President-elect Trump on Friday “met with William Happer, a Princeton professor of physics who has been a prominent voice in questioning whether we should be concerned about human-caused climate change,” according to the Trump transition team. The [Huffington Post](#) (1/14) reported that Happer, the Princeton physics professor who has stated that global warming is “good for mankind.” Happer testified before the Senate in 2015 that the “benefits that more CO2 brings from increased agricultural yields and modest warming far outweigh any harm.” Happer has also argued that warming “seems to be due mostly to natural causes, not to increasing levels of carbon dioxide,” and that children are “force-fed propaganda masquerading as science.”

Simm: Trump Could Positively Impact Climate.

CNBC (1/15) reported that Ian Simm, CEO of Impax Asset Management, says that the policies of President-elect Donald Trump could have a positive impact on the environment. First, Trump’s infrastructure plan to boost domestic growth will boost the environmental sector businesses in the US. Simm said, “Trump is very keen on bringing more economic growth back to the United States. More industrial activity is very good for companies that are solving environmental problems, (including) cleaning up the water supply from fracking water, air quality and pollution.” Additionally, sitting out from the environmental revolution will be a blow to the US political and economic prestige. If the US abdicates its position as a climate leader, China is waiting to step into the leadership role. Simm said, “We’re going to be completely transforming our economy in terms of power generation, heating our homes, transportation. If the United States sits on the sidelines, it’s going to miss out on massive opportunities...(which would be) completely opposite of what Trump’s trying to achieve.”

Sierra Club Files FOIA On Climate Data To Prevent Record Destruction.

[Bloomberg News](#) (1/13, Dlouhy) reported that while US government scientists are frantically trying to copy climate data they fear will disappear under the Trump Administration, a novel move by the Sierra Club may buy them more time. The environmental group filed Freedom of Information Act requests asking the EPA and DOE for data on greenhouse gas emissions, traditional air pollution and power plants. This may impede the destruction of those records because federal laws and regulations tend to block government agencies from destroying files that are being considered for release. Even if the FOIA requests are eventually denied, the mere request could prevent the files from being deleted quickly. If the records are released, they could be stored independently of government servers, ensuring access if Trump moves to take them down.

ENFORCEMENT

Continuing Coverage: Fiat Chrysler Facing Steep Fines Under EPA Emissions Accusations.

In continuing coverage of the EPA’s accusation that Fiat Chrysler Automobiles used hidden software to cheat emissions tests, [Reuters](#) (1/13, Flak) reports financial concerns over “the potential size of fines facing” the company after the allegations “is likely to put off investors until the matter is settled,” according to analysts. Following the EPA’s accusations, FCA’s share price dropped 16 percent on Thursday as the company is “facing a maximum fine of about \$4.6 billion.” The stock recovered slightly on Friday, increasing “4.4 percent to 9.185 euros but remained well

below levels it hit before the EPA announcement on Thursday, when the stock was a notch short of setting a fresh record high after rising to levels it last touched in March 2015." Analysts have drafted, "best and worst case scenarios," expecting possible "fines ranging from several hundred million dollars to \$4 billion," but concluded "the likelihood of hefty fines was low." The Wall Street Journal (1/13, Wilmot) reports Fiat's unsteady finances expose the company to a volatile situation, as the company's debt was piled at 6.5 billion euros at the end of September.

The Wall Street Journal (1/13, Sylvers) reported the emissions scandal, similar to the one that plagued Volkswagen from late 2015 through this year, spells bad news for FCA's CEO Sergio Marchionne, who has scored several victories in the business world over the last 10 years in turning around Fiat and buying out a bankrupted Chrysler. The story suggests GM did not even deign to meet with FCA for merger talks because of the latter's history of regulatory violations and other legal issues with consumers.

Bloomberg News (1/13, Schoenberg, Ebhardt) reports FCA is now also "under investigation by the U.S. Justice Department over its alleged failure to disclose software that violated emissions standards." In an emailed statement, Fiat said: "As we confirmed yesterday, FCA has been in an active dialogue with the EPA and their U.S. Department of Justice counterparts for several months and we will continue to fully cooperate with their ongoing investigation." Fiat Chrysler's Chief Executive Officer Sergio Marchionne called the allegations "absolute nonsense," adding that "the software wasn't intended to bypass emissions tests or operate differently in evaluation than in real-world use." Marchionne said: "We are confident that no one at FCA committed any fraud or tried not to be compliant...We may be technically deficient but not immoral. We never installed any defeat device." Columnist Chris Hughes writes for Bloomberg Business (1/13, Hughes) that in response to the allegations, Fiat claims it "believes its emission control systems meet the 'applicable requirements.'" The assertion could be taken "as a rebuttal to any suggestion that the software led to excess emissions, but it doesn't really address the EPA's complaint about inadequate disclosure."

USA Today (1/13, Snively) reports Fiat also maintains that "there are vast differences between its case the scandal that has engulfed" Volkswagen. It highlights the most significant as the EPA has not yet "accused Fiat Chrysler of intentionally installing devices to cheat on emissions tests," instead "of installing eight undisclosed pieces of software that can alter how a vehicle emits air pollution." Furthermore, the EPA hasn't yet asked Fiat to cease sales of the vehicles.

Meanwhile, Reuters (1/13) reports the UK is rapidly attempting to access the information from the EPA's investigation. A Department for Transport spokesman on Friday said "we are urgently seeking further information from the US Environmental Protection Agency... and will also be seeking information from the manufacturer regarding vehicles in the UK market."

Reuters (1/13, Shepardson) reports Florida Senator Bill Nelson urged the US Federal Trade Commission to implement "wider federal scrutiny into Fiat Chrysler Automobiles NV's (FCHA.MI) marketing of diesel-powered SUVs. Fiat marketed the SUVs in question as 'ecodiesels,'" which are "clean by nature" and surpass emissions requirements. Additionally, "2014-2016 diesel Ram 1500 and Jeep Grand Cherokee pickups under investigation won several green car awards." Neither the FTC nor Fiat has commented on Nelson's proposal.

The Verge (1/13, Hawkins), CNBC (1/13), and Reuters (1/13, Guillaume, Carraud, Flak) provide similar coverage.

Italian Tests Negate Germany's Accusations Against Fiat Chrysler Emissions. In a separate case, Reuters (1/16, Flak, de Carbonnel) reports that last year, Germany "raised concerns over certain" over specific FCA models, "alleging that hidden software allowed excessive emissions by their diesel engines." Italy's transport ministry on Monday said tests performed on Fiat Chrysler vehicles reveal "they are compliant with regulations and contain no emissions defeat

devices as alleged by Germany.” The issue resurfaced after the EPA’s recent allegations, and over the weekend, German Transport Minister Alexander Dobrindt argued “that Fiat Chrysler vehicles breaking emissions rules should be recalled and taken off the streets.” Bloomberg News (1/16, Buergin, Follain) quotes Italian Transport Minister Graziano Delrio, who responded to Dobrindt’s call stating “our tests demonstrate that there are no illegal devices or abnormal procedures...We agreed to set up a mediation commission in Brussels because we have nothing to hide.”

INTERNATIONAL

Additional Reading.

- *Oslo Temporarily Bans Diesel Cars To Combat Pollution.* The Guardian (UK). (1/16)
- *Beijing Sets 2017 Air Pollution Goal At More Than Double WHO’s Acceptable Standard.* New York (NY) Times. (1/14, Reuters)

OTHER NEWS

Perry Confirmation Hearing To Be Held This Week.

On its website, NPR (1/16, Taylor) reports several of President-elect Donald Trump’s nominees will receive Congressional hearings this week, most of them “are expected to be fairly routine, but a few could be hot-button affairs, including hearings for Education Secretary-designate Betsy DeVos and Scott Pruitt, Trump’s nominee to lead the Environmental Protection Agency.” Rick Perry will testify on Thursday “before the Senate Energy and Natural Resources Committee at 10 a.m.” on his nomination to be energy secretary. The Washington Post (1/16, Viebeck) reports Perry’s hearing will take place on the same day as Steven Mnuchin, who has been “nominated for treasury secretary.”

The Washington Times (1/16, Wolfgang) reports the record of Perry “clearly shows that renewable energy thrives when he is in charge.” As Texas governor, Perry “oversaw a massive expansion of clean power” in the state. Perry’s “record on clean energy will be a key weapon against critics,” who are certain “to paint the former governor as a shill for the fossil fuels industry and a looming disaster for the environment.” Wind Coalition executive director Jeff Clark said, “He’s shown that he was an ‘all-of-the-above’ governor. To the extent that energy is a key part of our Texas economy, Rick Perry was pushing economic growth through energy development. That included oil, gas, wind and solar.” The Boston Globe (1/17, Linskey), in a piece that contends that many of Trump’s Cabinet choices do not have “expertise in the departments they’ll run,” reports Perry “once proposed eliminating” the Energy Department.

PESTICIDES

New “Flexible” EPA Bee Policy Allows Short-term Spraying For Certain Chemicals.

The Los Angeles Times (1/13, Mohan) reported the EPA released assessments last week saying neonicotinoid pesticides “do not pose significant risk to bee colonies” when used in approved ways, although the agency acknowledged that the chemicals “can kill bees and their larvae individually.” The Times says the risk assessments “will form the scientific foundation” for strictly enforceable federal laws on labeling requirements, and they also underpin the EPA’s unenforceable bee policy, which “suggests that users avoid spraying the toxins when commercial hives have been brought in to pollinate blooming flowers.”

Bloomberg BNA (1/13, Stecker) reports the new guidance from the EPA is “more flexible and practical” than a proposal from 2015. The new policy “allows products that retain their toxicity to

bees to be applied for short periods in certain cases. It also would approve spraying when pollinators are unlikely to be foraging. The policy recommends new language for pesticide labels but is not legally binding.”

RULES/REGULATIONS/POLICY

Supreme Court Takes Up NAM’s WOTUS Case.

Writing for Shopfloor (1/13), NAM Senior Vice President and General Counsel Linda Kelly said the US Supreme Court on Friday “granted certiorari to the NAM’s petition in the challenge to the EPA’s Waters of the US regulation.” Kelly added, “We have asked the Supreme Court to review a decision from the U.S. Court of Appeals for the Sixth Circuit, where many suits challenging the WOTUS rule have been consolidated.” The Washington Post (1/13, Barnes) reported that the dozen new cases the Supreme Court accepted on Friday “mostly [represent] business concerns.” The Post cites the NAM’s brief, which in part says, “What should be a straightforward gatekeeping provision has in this and other cases generated widespread judicial disagreement, caused needless delay, and wasted valuable resources for no substantive purpose.” The High Plains and Midwest AG (KS) Journal (1/14) also cited the NAM’s brief.

The Washington Examiner (1/16) reported manufacturers hope the Supreme Court’s review “will resolve a crucial jurisdictional issue in challenging the Obama administration’s far-reaching Waters of the U.S. rule, which has been targeted by President-elect Trump for repeal.” The article cites the NAM’s release, which says, “Delaying review of the jurisdictional question, which must ultimately be resolved in any case, makes no sense, so we are very pleased that the Supreme Court decided today to resolve this issue.”

In a separate article, the Washington Post (1/14, Adler) said the Supreme Court will not address the substance of the WOTUS rule because its review is limited to proper jurisdiction, which, Reuters (1/13, Chung) reported, the NAM argues should be the district courts. Politico Pro (1/16) reports the National Association of Manufacturers is arguing “that challenges to the water rule should be heard first by district courts, rather than by appellate courts, as the 6th Circuit Court of Appeals decided.” E&E Publishing (1/16) reports the National Association of Manufacturers, “with the support of 31 states, petitioned the Supreme Court to reconsider the 6th Circuit’s jurisdiction decision,” arguing the litigation “belongs in local district courts.”

Bloomberg Government (1/13) reported the NAM’s petition says that the panel’s ruling, if allowed to stand, “would disserve the federal judicial process, which depends on district courts and courts of appeals independently analyzing legal issues. ... Under the panel’s ruling, challenges to important CWA regulations would be funneled to a single court of appeals, without the benefit of initial consideration by the district courts or the opinions of the other federal courts of appeals on the same issues.”

The Hill (1/13, Cama) reports the industry groups involved, “led by the National Association of Manufacturers (NAM), say that under the Clean Water Act, lower district courts should first hear the challenges, which can then be appealed to the Supreme Court.” The article cites a NAM filing to the Supreme Court in October that said, “This recurring jurisdictional issue has divided the circuits, wasted judicial and party resources, and delayed the resolution of important rule challenges.”

Meanwhile, the Washington Post (1/13, Fears) reports, the Obama administration on Friday filed “a 245-page brief in defense of its controversial ‘Waters of the United States’ rule that defines every water body in the nation, and determines whether they can be regulated under the Clean Water Act.” The Post characterized the brief as “the administration’s most forceful defense of the

rule.” However, the article says it’s “unclear” how it will be defended “since both President-elect Donald Trump and his nominee to lead the EPA, Scott Pruitt, oppose the rule.”

EPA Finalizes Vehicle Fuel Standards Ahead Of Obama’s Last Week In Office.

On Friday, the EPA finalized its fuel-economy rules for the auto industry through 2025, solidifying one of the Administration’s central programs to reduce greenhouse emissions but also sparking outcry from the industry, which wanted more time for the rules to be implemented.

The New York Times (1/13, Vlasic) reported the EPA decision “was not unexpected,” but automakers say “it will most likely make it more difficult for a Trump administration to dial it back.” EPA Administrator Gina McCarthy, however, has pointed out that the industry can improve fuel economy without dramatically raising prices for consumers.

The Wall Street Journal (1/13, Harder, Spector) reported the final decision calls for car companies to sell light vehicles with an average fuel economy of 54.5 miles per gallon by 2025, which translates to around 40 miles per gallon in real-world conditions. The auto industry will likely lobby for a reprieve. Environmental advocates, on the other hand, celebrated the step toward better fuel efficiency. Auto World News (1/14) reported that McCarthy defended the decision to keep the standards intact by citing the “agency’s eight years of research and industry’s ample opportunity for input.” McCarthy said the decision “rests on a large-scale technical record.”

The Washington Post (1/13, Mufson) reported “the standards would result in a fleetwide average fuel economy sticker values of 36 miles a gallon by the model year 2025, 10 miles a gallon higher than the current fleet average.” NHTSA still has to put out its own “five-year plan by 2018 or 2019” for the rule, which could pose a couple regulatory speed bumps for the rule, “but NHTSA has agreed with EPA assessments over the past few months and altering its conclusion could be difficult.”

USA Today (1/13, Snaveley, Woodyard) reported NHTSA Administrator Mark Rosekind “said earlier this week that his agency, which oversees fuel economy regulations, will not complete its review of regulations before president-elect Donald Trump takes office.”

The AP (1/13, Krisher, Biesecker) reported EPA “completed a required midterm review of Corporate Average Fuel Economy standards” back in November “and decided they should not be relaxed as requested by the auto industry.”

The Detroit Free Press (1/13, Snaveley) reported industry group the Auto Alliance stated “The EPA decision is disappointing. Our fundamental priority remains striking the right balance to continue fuel economy gains and carbon reduction without compromising consumer affordability and vital auto-sector jobs.”

The Detroit Bureau (1/13, Eisenstein) reported that “since the rules were enacted, significant changes have occurred in the U.S. automotive marketplace,” from the replacement of sedans and coupes by SUVs and pickups as the dominant American vehicle by sales, to “shifting demand – as well as cheap gasoline.”

Automotive News (1/13, McGavin), Wired (1/13, Davies), and E&E Publishing (1/13) also report.

Editorial: EPA Fuel Standards “Simply Not Achievable”. An editorial in the Wheeling (WV) Intelligencer (1/17) argues that the EPA’s fuel economy standard of 51.4 miles per gallon is “simply not achievable, barring some unforeseen leap forward in technology.” In order for automakers to meet the EPA target, the paper argues that vehicles will become less safe, more expensive, and probably less durable.

Local TV Coverage: EPA Keeps MPG Goal Under Trump. KIRO-TV ■ Seattle (1/16, 9:15 a.m. EST) reported, “The Environmental Protection Agency plans to keep fuel economy standards in place during President-elect Donald Trump’s administration. EPA officials said they are refusing

to back down. New vehicles have to average over 51 miles per gallon by 2025 which is up from 33 miles per gallon. Critics say the requirements make cars more expensive." [KKFX-TV](#) Santa Barbara, CA (1/17, 1:31 a.m. EST) reported similar coverage.

Auto Industry's At Times Shaky Relationship With US Regulators Explored.

[Bloomberg News](#) (1/13, Welch, Beene, Lippert) reported on the "final, multiprong effort on enforcement and regulation in the automotive industry" being "unleashed" by the Obama Administration as it enters its final week in office. Fiat Chrysler is one prominent example this week of US regulators taking "so much more than a parting shot" at the auto industry, the story says, although Volkswagen and Takata Corp. are also still on the radar. According to the story, the difference between Obama and Trump could be light and day, as it does not appear at the moment that "Trump is spending much time even thinking about how to regulate" the auto industry. As Toyota Motor North America CEO Jim Lentz puts it, "I'm not sure if 'our neck of the woods' is going to be on top of the list," given that "the new Secretary of Transportation may be spending more time on infrastructure than on regulating autonomous cars or fuel economy."

In a similar story, [Bloomberg News](#) (1/13, Mehrotra, Welch) reported on the various regulatory issues rocking major players in the industry. For instance, in 2014, just as it seemed GM would be off the hook for the then-biggest auto recall in US history, the scandal over Takata-manufactured airbags was just gearing up. VW and FCA face emissions scandals.

TOXICS/TSCA

EPA: New Hampshire Chemical Releases Down Significantly Over Past Decade.

The [AP](#) (1/15) reported that chemical releases in New Hampshire have fallen from nearly 5.3 million pounds to less than a half-million pounds over the past decade, according to new data from the EPA. "The trends that show steady declines of chemicals being released into New England's air, water and land show without any doubt that we can have a strong and growing economy while enjoying a clean, healthy and protected environment," explained Curt Spalding, regional administrator of EPA's New England office.

Additional Reading.

- *EPA Issues Proposal on TSCA Inventory "Reset".* [National Law Review](#). (1/16)
- *EPA Proposes Procedures to Prioritize Chemicals for Risk Evaluation Under TSCA.* [National Law Review](#). (1/16)

WATER

Engineering Company's Report Suggests Higher Costs For Getting Flint Water Plant Operational.

[MLive \(MI\)](#) (1/16, Fonger) says a draft report from engineering and construction company CDM Smith appears to be the source of the recent rumors that the expected cost of getting Flint, Michigan's water treatment plant operational plan will be higher than previous estimates and that the timeframe for completion is longer than expected. According to [MLive](#), "The estimates raise new questions about who would pay for \$105 million in recommended upgrades contained in the report and for the millions more that would be needed to continue purchases of pre-treated water for as long as three more years," when previous estimates placed a completion date somewhere in the second quarter of 2017.

Local TV Coverage: Long Island Ground Water Contamination.

WLNY-TV 📺 New York (1/15, 11:42 a.m. EST) reported, "Water worries for 3 million people in Long Island. A chemical with possible cancer links has been detected in the water....Hicksville's wells contains the highest concentration in the nation of the man-made chemical dioxane listed by the EPA as a probable carcinogen. ...Governor Cuomo announced in his state of the state there will be further testing for dioxin on long island. He proposed a \$2 billion fund to pay for clean water infrastructure, helping communities and still treatment systems to get rid of contaminants. ...Effects of the chemical varies depends on person's exposure, health and age."

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